

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DONALD BLACKBEY,

Plaintiff,

vs.

DEPARTMENT OF CORRECTIONS,
et al,

Defendants.

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4:05cv3116

MEMORANDUM AND ORDER

This matter is before the court sua sponte. Fed. R. Civ. P. 4(m) establishes the following time limit for service of process on the defendants in a civil case:

(m) Time Limit for Service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (j)(1).

In the court's Order on Initial Review, the court extended the deadline for service of process to 120 days after entry of that Order, and the court notified the plaintiff that the absence of timely service of process on a defendant could result, without further notice, in dismissal without prejudice of the plaintiff's claims against such defendant. The deadline has expired, and the court's records show that the plaintiff did not complete and return the summons forms provided to him so that service of process could be accomplished. Therefore, pursuant to Fed. R. Civ. P. 4(m), the plaintiff's complaint and the above-entitled action are dismissed without prejudice. A separate judgment will be entered accordingly.

SO ORDERED.

DATED this 1st day of March, 2006.

BY THE COURT:

s/Joseph F. Bataillon
JOSEPH F. BATAILLON
Chief District Judge